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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/971,131	10/04/2001	James C. Tuthill	21488/04040	4066

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EXAMINER

WALSH, BRIAN D

ART UNIT PAPER NUMBER

3722

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/971,131

Applicant(s)

TUTHILL, JAMES C.

Examiner

Brian D. Walsh

Art Unit

3722

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☒ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-10 and 12-24.

Claim(s) withdrawn from consideration: 11.

8. ☒ The proposed drawing correction filed on 02 September 2003 is a) ☒ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).

10. ☐ Other: \_\_\_\_\_

  
A. L. WELLINGTON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

Continuation of 2. NOTE: Duran teaches a retaining device similar to the instant invention comprising every element of independent claim 1 with the exception of a "generally perpendicular" peripheral section (fingers). As well, the device disclosed by Duran functions in an identical manner to that of the instant invention.

Bias discloses yet another similar invention, having a peripheral section (32) that is clearly generally perpendicular to a base section. Bias also discloses that the purpose of the peripheral section is to engage the nut (N) (Col. 7, lines 13 - 16). The Examiner determines that this combination, of clearly analogous art, is appropriate.

Applicant next argues teachings of Grube. The Examiner is unsure as to what Applicant is arguing since Grube (U.S. Pat. No. 4,812,094) was not relied upon at any time in the final rejection.

Applicant amended claim 20 to include "[the] peripheral section includes a portion for snapping over the nut and substantially closing the longitudinal windows at an end opposite the end adjacent the base section to lock said spindle nut retainer in place." The Examiner carefully reviewed the specification and found no mention of a window being "closed." Applicant does describe a locking feature as shown below:

"In an embodiment wherein the spindle nut retainer 20 is made of steel, the flared ends 39 of each finger 38 may be bent internally to create a locking function. Additionally or alternatively in either embodiment, the corners 64 of the nut 60 which pass through the longitudinal windows 36 may be locked in place by the end surfaces 46 of the windows."

The limitation "closing the longitudinal windows" is not understood and raises new issues and would also require a further search by the Examiner. The words "close," "closed" or "closing" were not found in the specification. Furthermore, this limitation is not shown in the drawings..